

## REMARKS

Claims 1-18 were pending in this application. Upon entry of this amendment, claims 1-2, 6 and 16 will be pending.

### Rejections Under 35 U.S.C. §§ 102

Claims 1-2 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Kaji et al. (Bull. Chem. Soc. Jpn, 49, pp 3181-3184 (1976)) or Rich et al. (J. Org. Chem., 45 pp 2288-2290). The Examiner contends that Kaji discloses 3-amino-2-hydroxy carboxylic acids embraced by claims 1 and 2 and that Rich discloses 3-amino-5-methylhexanoic acid.

Applicants traverse the rejection and request withdrawal of the same.

Claims 1-2 have been amended to no longer recite the subject matter of Kaji or Rich.

Claims 1-4 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Craig et al. (US Patent No. 6,242,494). The Examiner contends that Craig discloses 3-amino-2-hydroxy-5-ethylthio pentanoic acid.

Applicants traverse the rejection and request withdrawal of the same.

Claims 3-4 have been cancelled, and claims 1-2 have been amended to no longer recite the subject matter of Craig.

Claims 1-2, 5 and 12 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Matsuda et al. (Bull. Chem. Soc. Jpn, 655(2), pp 360-365 (1992)) or Peet et al. (J. Med. Chem, 33(1) pp394-407. The Examiner contends inter alia that Matsuda discloses a series of 3-amino-2-hydroxy carboxylic acids and Peet discloses 3-amino-2-hydroxy butanoate.

Applicants traverse the rejection and request withdrawal of the same.

Claims 5 and 12 have been cancelled, and claims 1-2 have been amended to no longer recite the subject matter of Matsuda or Peet.

Claims 1-2, 5-6 and 16 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Ojima et al. (Tet. Lett., 33(39) pp 5537-5700 (1992)). The Examiner contends that Ojima discloses a series of 3-amino-2-hydroxy carboxylate salts and its use as peptide-based inhibitors of various enzymes.

Applicants traverse the rejection and request withdrawal of the same.

Claim 5 has been cancelled, and claims 1-2, 6 and 16 have been amended to depend on claims which no longer recite the subject matter of Ojima.

### DOUBLE PATENTING

Claims 1, 3, 5 and 7-15 stand rejected under the judicially-created doctrine of obviousness-type double patenting as being unpatentable over claims 1 and 2 of U.S. Patent No.

6,242,494. The Examiner asserts inter alia that, although the conflicting claims are not identical, they are not patentably distinct from each other. The Examiner further asserts that a terminal disclaimer in compliance with 37 C.F.R. 1.321(c) may be used to overcome the rejection.

Applicants traverse the rejection and request withdrawal of the same.

Claims 3, 5 and 7-15 have been cancelled, and claim 1 has been amended to no longer recite the subject matter of the '494 patent.

**CONCLUSION**

Allowance of claims 1-2, 6 and 16 is respectfully requested.

Respectfully submitted,  
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